

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>IN RE BLUE CROSS BLUE SHIELD ANTITRUST LITIGATION MDL 2406</b>	: : <b>Master File 2:13-cv-20000-RDP</b> : : : : <b>This document relates to</b> : <b>Subscriber Track cases</b>
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**STIPULATION AND ORDER AS TO  
SCOPE OF FILED RATE DEFENSE**

Plaintiffs C B Roofing, Inc. and American Electric Motor Service, Inc. and defendant Blue Cross Blue Shield of Alabama (“BCBSAL”), through their respective undersigned counsel, stipulate as follows:

(1) The filed-rate doctrine asserted in defendant’s Answer, Doc. 248, at 286 ¶ 8, and otherwise addressed in these proceedings, does not apply to plaintiffs’ damages claim to the extent that claim includes BCBSAL groups larger than 50.

(2) The parties consent to the Court’s entry of judgment as a matter of law that BCBSAL’s filed-rate defense does not bar or limit plaintiffs’ damages claim to the extent that claim includes BCBSAL groups larger than 50.

(3) The parties disagree about the appropriate unit of measurement to determine whether a group is “larger than 50.” Plaintiffs contend that the filed-rate

defense applies only to groups with up to 50 eligible employees. BCBSAL, by contrast, contends that the defense applies to groups with up to 50 enrolled subscribers.

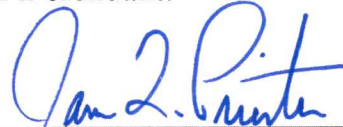
(4) The parties otherwise reserve their rights to argue for or against the application of BCBSAL's filed-rate defense to plaintiffs' damages claim, except to the extent expressly set forth above.

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DONE and ORDERED effective this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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R. DAVID PROCTOR  
UNITED STATES DISTRICT JUDGE